

REMARKS

Rejection under 35 U.S.C §103

Claims 1, 3-5, 9, 12, 13, 15-17, 21, and 24-26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,852,622 to Meissner in view of U.S. Pat. No. 6,288,833 to Kasamatsu. In particular, the Examiner finds that Meissner discloses a solid state waveguide with all the limitations set forth in the claims except for the use of a LuAG material, and that Kasamatsu discloses the use of LuAG. The Examiner thus expresses the opinion that it would have been obvious to a person of ordinary skill in the art to modify the device disclosed by Meissner to use LuAG.

Applicants are in respectful disagreement with the Examiner's view that such a modification would have been obvious to one skilled in the art of lasers at the time the invention was made. As those skilled in the art know, finding combinations of materials that can be used together as core and cladding for a laser device is a matter of trial and error and not unsubstantial experimentation, and therefore those skilled in the art would not assume that a combination of materials can be used together. Enclosed herewith Applicants submit a Declaration Under 37 C.F.R. §1.132 of Applicant Hans W. Bruesselbach explaining the state of the art and the expectations of those of skill in the art. As set forth in the Declaration, those skilled in the art are well aware of the necessity of actual experimentation with every particular combination of materials for the cladding and core of a solid state laser waveguide device, and would not in fact find it obvious to try a combination of two materials disclosed in two separate patents for two different purposes nor presume that such a combination was more likely to succeed than any other combination. Applicants thus respectfully submit that those of skill in the art would not in fact find it obvious to try to fabricate the device of Meissner with LuAG material simply because Kasamatsu discloses the use of LuAG.

Applicants respectfully ask that the Examiner consider the discussion set forth in the Declaration and pass this case to issue.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

July 20, 2004
(Date of Transmission)

Mia Kim
(Name of Person Transmitting)


(Signature)

7/20/04
(Date)

Respectfully submitted,



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Attachments: Rule 132 Declaration of Hans W. Bruesselbach